

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

BRENDA G. FIELDS,	)	
Plaintiff,	)	
	)	Case No. 1:08-CV-264
v.	)	(MATTICE/CARTER)
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
Defendant.	)	

REPORT AND RECOMMENDATION

The defendant, Michael J. Astrue, Commissioner of Social Security, by and through William C. Killian, United States Attorney for the Eastern District of Tennessee, moves to dismiss this case with prejudice pursuant to Rule 41(b), Federal Rules of Civil Procedure, for failure to prosecute.

On January 27, 2009, the Court remanded this case for further administrative proceedings within the Social Security Administration, pursuant to the sixth sentence of 42 U.S.C. 405(g). The Administrative Law Judge (ALJ) issued a new decision which was partially favorable and which claimant did not administratively appeal. Therefore, the ALJ's June 8, 2010, decision is the Agency's final decision for purposes of this Court's review (Doc. 11, p. 1). An Order of May 15, 2012, allowed Plaintiff's attorney in the original administrative hearing to withdraw. The Commissioner has contacted the Buchanan Law Firm who represented Plaintiff in the later administrative proceeding which was partially successful (Doc. 15). After discussion with counsel the Plaintiff decided not to further appeal the decision (Doc. 15-1). I therefore RECOMMEND<sup>1</sup>

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<sup>1</sup>Any objections to this Report and Recommendation must be served and filed within fourteen (14) days after service a copy of this recommended disposition on the objecting party. Such objections must conform to the requirements of Rule 72(b) of the Federal Rules of Civil

the Commissioner's Motion to Dismiss (Doc. 10) be GRANTED.

S / *William B. Mitchell Carter*

UNITED STATES MAGISTRATE JUDGE

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Procedure. Failure to file of objections within the time specified waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 149, 88 L.Ed.2d 435, 106 S.Ct. 466 (1985). The district court need not provide *de novo* review where objections to this report and recommendation are frivolous, conclusive and general. *Mira v. Marshall*, 806 F.2d 636 (6th Cir. 1986). Only specific objections are reserved for appellate review. *Smith v. Detroit Federation of Teachers*, 829 F.2d 1370 (6th Cir. 1987).